

REMARKS

This is a full and timely response to the final Office Action mailed on October 20, 2005 (Paper No./Mail Date 20051014). Reconsideration and allowance of the Application and presently pending claims are respectfully requested in view of the foregoing remarks.

I. Interview Summary

Applicants appreciate the time the Examiner spent with Applicants' attorney, Minh Nguyen, in a telephone conference on January 24, 2006. During the Interview, the Examiner suggested specifying in the claims what application servers are and how a multimedia messaging server conserves bandwidth to overcome the cited references of record. No agreement was reached.

II. Response to Claim Rejections Under 35 U.S.C. §103

Claims 1-11, 20, 21, and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,874,985 to *Matthews* in view of U.S. Patent No. 5,559,549 to *Hendricks, et al.* Claims 25 and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Matthews* in view of *Hendricks* and U.S. Patent No. 6,020,980 to *Freeman*. Claims 13-19 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Matthews* in view of U.S. Publication No. 2003/0115600 to *Tanaka*. Claim 22 stands rejected as allegedly being unpatentable over *Matthews* and *Hendricks* as applied to claim 20, and further in view of U.S. Patent No. 5,781,186 to *Jennings*. Claim 27 stands rejected as allegedly being unpatentable over *Matthews, Hendricks, and Freeman* as applied to claim 25, and further in view of *Jennings*. Claim 23 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Matthews* and *Hendricks* as applied to claim 20, and further in view of *Freeman*. Claim 12 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Matthews* and *Hendricks* as applied to claim 1, and further in view of U.S. Patent No. 5,822,123 to *Davis*.

It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a single reference, the reference must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208

U.S.P.Q. 871, 881 (C.C.P.A. 1981). In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the prior art reference must suggest all steps/elements/features of the claimed invention to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, supra.; *In re Keller*, supra.

A. Claims 13, 20, and 25

Claim 13, as amended, recites:

13. A method for receiving customizable multimedia messages over a television system at a communications terminal for presentation to a user, comprising:

creating at least one message configuration by at least one application server, each application server being capable of providing interactive services that enable the communications terminal to communicate over the television system;

sending the at least one message configuration from the least one application server to a multimedia messaging server;

receiving the at least one message configuration at the multimedia messaging server;

configuring at the multimedia messaging server a plurality of different message requests with respective message content expressions and respective message configuration expressions, the plurality of different message requests being associated with the received message configuration, ***the multimedia messaging server being capable of managing the delivery of the request over the television system to the communications terminal, thereby conserving system bandwidth;***

configuring a first type of expression to correspond to including in a message request a location reference to retrieve message information from a location remote from a communication terminal;

configuring a second type of expression to correspond to including in a message request message information;

receiving at the communications terminal from the multimedia messaging server a first message request including a first message content expression and a first message configuration expression;

responsive to receiving the first message request, presenting a first message to a user according to the first message content expression and the first message configuration expression;

receiving at the communications terminal from the multimedia messaging server a second message request including a

second message content expression and a second message configuration expression; and

responsive to receiving the second message request, presenting a second message to a user according to the second message content expression and the second message configuration expression, wherein the second message request includes at least one type of expression different than the type of expressions in the first message request.

(Emphasis Added)

Claim 20, as amended, recites:

20. A system for providing customizable multimedia messages over a television system to a communications terminal for presentation to a user, comprising:

at least one application server that generates at least one message configuration, *each application server being capable of providing interactive services that enable a communications terminal to communicate over the television system;*

a multimedia messaging server that receives at least one message configuration from the at least one application server and associates message content for presentation to a user according to the at least one message configuration, and generates a request according to the at least one message configuration, the request including the message content and a message configuration expression for delivery over a television system to the communications terminal associated with the user, wherein the at least one application server and the multimedia messaging server are located in the headend, *the multimedia messaging server being capable of managing the delivery of the request over the television system to the communications terminal, thereby conserving system bandwidth;* and

a multimedia messaging client that receives the request and associates the message content and the message configuration for presentation of the message content according to the message configuration.

(Emphasis Added)

Claim 25, as amended, recites:

25. A system for delivery of multimedia messages, comprising:
a multimedia messaging server; and
at least one application server in which each server
generates message content and a database of predefined message
configurations, ***each application server being capable of
providing interactive services that enable a communications
terminal to communicate over the television system,***
wherein each application server delivers the message content
and at least one of the database of predefined message configurations
to the multimedia messaging server, which in response thereto,
generates a request that comprises the message content and a
message configuration expression for delivery over a television
system to a communications terminal associated with the user,
wherein the at least one application server and the multimedia
messaging server are located in the headend, ***the multimedia
messaging server being capable of managing the delivery of the
request over the television system to the communications
terminal, thereby conserving system bandwidth.***

(Emphasis Added)

Applicants have amended claims 13, 20, and 25 as suggested during the Examiner Interview mentioned above. In particular, the Examiner suggested specifying in the claims what application servers are and how a multimedia messaging server conserves bandwidth to overcome the cited references of record. Applicants respectfully submit that the cited references of record fails to disclose, teach, or suggest each and every feature of claims 13, 20, and 25. Applicants respectfully request that claims 13, 20, and 25 be allowed and the rejection be withdrawn.

B. Claims 14, 17, 19, 21-24, and 26-27

Because independent claims 13, 20, and 25 are allowable over the cited art of record, dependent claims 14, 17, 19, 21-24, and 26-27 are allowable as a matter of law for at least the reason that dependent claims 14, 17, 19, 21-24, and 26-27 contain all features and elements of their respective independent base claims. *See, e.g., In re Fine*, supra. Accordingly, Applicants respectfully request that the rejection to dependent claims 14, 17, 19, 21-24, and 26-27 be allowed and the rejection be withdrawn for this reason alone, among others.

III. Newly Added Claims 28-35

Claim 28 recites:

28. A method for providing customizable multimedia messages over a television system to a communications terminal for presentation to a user, comprising:
creating at least one message configuration by at least one application server, ***each application server being capable of providing interactive services that enable a communications terminal to communicate over the television system***;
sending the at least one message configuration from the at least one application server to a multimedia messaging server;
receiving the at least one message configuration at the multimedia messaging server;
creating message activation requests for presenting a first message content to the communications terminal associated to the user according to the at least one message configuration, the message activation requests being delivered over a television system to a communications terminal associated with the user;
managing the delivery of the requests over the television system to the communications terminal, thereby conserving system bandwidth; and
sending the message activation requests from the multimedia messaging server to the communications terminal over the television system.

(Emphasis Added)

Claims 28-35 include the features of “each application server being capable of providing interactive services that enable a communications terminal to communicate over the television system;... managing the delivery of the requests over the television system to the communications terminal, thereby conserving system bandwidth.” Applicants respectfully submit that the cited references of record fails to disclose, teach, or suggest the above-quoted features of claims 28-35, among others. Applicants respectfully request that claims 28-35 be allowed.

IV. Miscellaneous

Applicants respectfully traverse all Office Notices and well-known allegations made in the Office Action and submit such should not be considered well-known because the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support the conclusions. Furthermore, the findings are too complex and detailed to be supportable as well-known in the combinations claimed. The Office Action has taken Official Notice that “it was notoriously well known in the art at the time of invention by applicant to

transmit a location reference to identify a location from which to retrieve message content, such as utilized by the well known ATVEF standard, for the typical benefit of allowing the receiver to easily locate and display content from sources other than the broadcast provider.” (Page 4, paragraph 5 of the Office Action). The Office Action further stated that “it was notoriously well known in the art at the time of the invention by applicant to transmit updated information to a receiver at boot-up or initialization for the typical benefits of ensuring that a recently activated system has the most current information.” (Page 5, paragraph 3, page 15, paragraph 4 of the Office Action). The Office Action further stated that “it was notoriously well known in the art at the time of invention by applicant to utilize servers to receive and process incoming signals, such as in a cable headend, for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.” (Page 8, paragraph 2 of the Office Action). The Office Action further stated that “it was notoriously well known in the art at the time of invention by applicant to utilize servers to receive and process incoming signals, such as in a cable headend, for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.” (Page 10, paragraph 3 of the Office Action). The Office Action further stated that “it was notoriously well known in the art at the time of invention by applicant to utilize a default in the absence of a specific signal, whereby the system is to assume the default unless told otherwise, for the typical benefit of allowing the receiver to quickly process incoming messages by using the most common default setting in the absence of any other corresponding command.” (Page 16, paragraph 4 of the Office Action). The Office Action further stated that “it was notoriously well known in the art at the time of invention by applicant to identify a location reference to identify a location from which to retrieve message content, utilize a default in the absence of a specific signal, whereby the system is to assume the default unless told otherwise and utilize servers to receive and process incoming signals.” (Page 27, paragraph 2 of the Office Action).

According to MPEP 2144.03, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." MPEP 2144.03 also states that "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Office Action must provide specific factual findings predicated on sound

technical and scientific reasoning to support his or her conclusion of common knowledge."

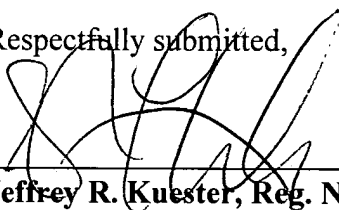
Accordingly, Applicants respectfully traverse the above conclusions and submit that the subject matter noted above should not be considered well known because the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support the conclusions. Accordingly, Applicants submit that it has not been shown that the material asserted to be well-known is capable of instant and unquestionable demonstration as being well-known.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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